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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,416	12/22/2003	Khasid M. Ali Khan	5150-84100	7508

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EXAMINER

PEYTON, TAMMARA R

ART UNIT PAPER NUMBER

2182

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,416

Applicant(s)

ALI KHAN ET AL.

Examiner

Tammara R. Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 and 13-31 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 12-31 are rejected under 35 U.S.C. 103(a) as being obvious over by Kowert (US 5,649,129).

As per claims, 1, 4, 5, 6, 7, 8, 11, 15, 16, 18, 19, 22, 25, 26, 28, and 29 , Kowert teaches a method, comprising:

capturing data events from a nondeterministic data bus; transferring (via DMA transfer) said captured data events to a region of a data event buffer as portions of said captured data events become available; retrieving captured data events from said region of said data event buffer. Applicant noticed that "Kowert specifically discloses that a captured data event occurring on a GPIB bus may be assigned a timestamp value corresponding to a time at which the event was captured (e.g., Kowert, col. 13, line 48 - col. 14, line 55). However, the assignment of timestamp values to captured data events does not entail that the data events are displayed substantially in real time with respect to their occurrence on a nondeterministic data bus... Timestamp values may allow the order of captured data events to be preserved, such that they may be displayed in the order they were captured. However, there is no necessary connection

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between the assignment of timestamps to data events and the manner in which the data events are displayed. Kowert does not specifically disclose an application configured to retrieve captured data events from a region of a data event buffer and to display the retrieved data events substantially in real time with respect to the occurrence of the corresponding captured data events on a nondeterministic data bus", pg. 10. Examiner agrees with Applicant that Kowert does teach a GPIB analyzer and a display is used to monitor captured data. However, the claim language of "substantially in real-time" does expressly define the time between the occurrence of the captured data event and the display. The specification discloses that "system 100 may be configured such that a data event occurring with a given minimum duration and maximum frequency is guaranteed to be displayed via user application 210 within a given maximum latency after the occurrence of the data event.", pg. 13, lines 1-3. Therefore, Examiner is taking the position that "a given maximum latency" does not clearly define that is meant by "substantially real-time" as a time between the occurrence of the captured data event and the display. This limitation is not structurally involved in the elements of the recited system, therefore, this limitation is deemed to be nonfunctional descriptive material. The differences between the content of the Applicant's invention and Kowert are merely subjective. Thus, this nonfunctional descriptive material ("substantially real-time") will not distinguish the claimed invention from the Kowert in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106.

As per claims 2, 3, 13, 14, 20, 23, 24, and 30, Kowert does not teach wherein the data event buffer is circular or linear, however, one of ordinary skill would readily recognize that a circular or a linear buffer is well known in the art, thereby making use of these types of well known buffers obvious to one of ordinary skill.

As per claim 9, 20, and 30, Kowert teaches having a sample index value for the captured data events, therefore, it would have been obvious that transmissions related to the sample index value is performed via a DMA transfer.

Conclusion

Applicant's arguments filed 01/03/06 have been fully considered but they are not persuasive. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(571) 273-8300

Hand-delivered responses should be brought to:
USTPO, Randolph Building, Customer Service Window
401 Dulany Street
Alexandria, VA 22314.

Tammara Peyton
March 15, 2006

TAMMARA PEYTON
PRIMARY EXAMINER
